

Effective 3/29/2014

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63G-6a-1206 Rules and regulations to determine allowable incurred costs -- Required information -- Auditing of books.

- (1)
 - (a) The applicable rulemaking authority may, by rule, establish the cost principles to be included in a cost-reimbursement contract to determine incurred costs for the purpose of calculating a reimbursement.
 - (b) The cost principles established by rule under Subsection (1)(a) may be modified, by contract, if the procurement officer or head of the issuing procurement unit approves the modification.
- (2) Except as provided in Subsection (5), a person who seeks to be, or is, a party in a cost-based contract with a procurement unit shall:
 - (a) submit cost or pricing data relating to determining the cost or pricing amount; and
 - (b) certify that, to the best of the contractor's knowledge and belief, the cost or pricing data submitted is accurate and complete as of the date specified by the procurement unit.
- (3) The procurement officer shall ensure that the date specified under Subsection (2)(b) is before:
 - (a) the pricing of any contract awarded by a standard procurement process or pursuant to a sole source procurement, if the total contract price is expected to exceed an amount established by rule made by the applicable rulemaking authority; or
 - (b) the pricing of any change order that is expected to exceed an amount established by rule made by the applicable rulemaking authority.
- (4) A contract or change order that requires a certification described in Subsection (2) shall include a provision that the price to the procurement unit, including profit or fee, shall be adjusted to exclude any significant sums by which the procurement unit finds that the price was increased because the contractor provided cost or pricing data that was inaccurate, incomplete, or not current as of the date specified by the procurement officer.
- (5) A procurement unit is not required to comply with Subsection (2) if:
 - (a) the contract price is based on adequate price competition;
 - (b) the contract price is based on established catalogue prices or market prices;
 - (c) the contract price is set by law or rule; or
 - (d) the procurement states, in writing:
 - (i) that, in accordance with rules made by the applicable rulemaking authority, the requirements of Subsection (2) may be waived; and
 - (ii) the reasons for the waiver.
- (6) The procurement officer or audit entity under contract with the procurement unit may, at reasonable times and places, only to the extent that the books and records relate to the applicable cost or pricing data, audit the books and records of:
 - (a) a person who has submitted cost or pricing data pursuant to this section; or
 - (b) a contractor or subcontractor under a contract or subcontract other than a firm fixed price contract.
- (7) Unless a shorter time is provided for by contract:
 - (a) a person described in Subsection (6)(a) shall maintain the books and records described in Subsection (6) for three years after the day on which the fiscal year in which final payment is made under the contract ends;
 - (b) a contractor shall maintain the books and records described in Subsection (6) for three years after the day on which the fiscal year in which final payment under the prime contract ends; and

- (c) a subcontractor shall maintain the books and records described in Subsection (6) for three years after the day on which the fiscal year in which final payment is made under the subcontract ends.